

FROM WILLKIE FARR 37 FAX DEPT.

(MON) 2.20'06 21:17/ST. 21:17/NO. 4200000598 P 1

PATENT

ATTORNEY DOCKET NO. 114596-20-4009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/434,394 Confirmation No.: 3898  
Applicant: John S. Yates, Jr., et al.  
Title: DISTINCTIVE REORDERED SIDE EFFECTS  
Filed: November 4, 1999  
Art Unit: 2122  
Examiner: Nguyen Bu, H. V. A  
Atty. Docket: 114596-20-4009  
Customer No. 38492

REQUEST FOR REFUND

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Two separate Petition for Extension of Time fees of \$120.00 were charged to our deposit account on April 19, 2005 and again on May 3, 2005. At the least, one of these should be refunded.

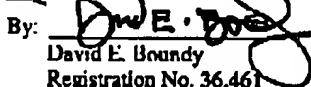
By a paper of May 20, 2005, the Examiner has acknowledged that finality of the Office Action of December 2004 was premature. Therefore, the response filed on February 28, 2005 tolled all periods of time running against this application, and both of these extension fees were a "fee paid when no fee is required."

Pursuant to MPEP § 607.02, please refund \$ 240.00 to Deposit Account No. 23-2405, Order No. 114596-20-4009, for serial no. 09/434,394.

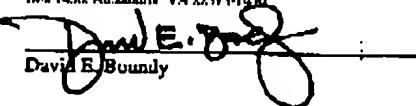
This is a third request - earlier requests were filed June 21, 2005 and August 25, 2005.

Respectfully submitted,  
WILLKIE FARR & GALLAGHER LLP

Dated: February 21, 2006

By:   
David E. Boundy  
Registration No. 36,461

I certify that this correspondence is being transmitted on February 21, 2006 to Commissioner for Patents, FAX no. 571-273-0500, P.O. Box 1450, Alexandria, VA 22313-1450.

  
David E. Boundy

WILLKIE FARR & GALLAGHER LLP  
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New York, New York 10019  
(212) 728-8757  
(212) 728-9757 Facsimile

Request for Refund

S/N 09/434,394

PAGE 1/1 \* RCVD AT 2/20/2006 8:25:11 PM [Eastern Standard Time] \* SVR:USPTO-EFXRF-6/24 \* DMS:2736500 \* CSID:12127288111 \* DURATION (min:ss):00:44

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PATENT

ATTORNEY DOCKET NO. 114596-20-4009

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/434,394 Confirmation No.: 3898  
 Applicant: John S. Yalea, Jr., et al.  
 Title: DETECTING REORDERED SIDE EFFECTS  
 Filed: November 4, 1999  
 Art Unit: 2122  
 Examiner: Nguyen Ba, H. V. A  
 Atty. Docket: 114596-20-4009  
 Customer No. 38492

120.00 CR  
 COMMERCIAL  
 APR 14, 2005

**AFTER FINAL - EXPEDITED PROCEDURE****REQUEST FOR WITHDRAWAL OF FINALITY OF OFFICE ACTION**

Mail Stop AF  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

/03/2005 CBARNES1 00000007 232405 09434394  
 FC:1251 Applicant observes that the Advisory Action of March 28, 2005 raises a new ground of  
 rejection. All issues raised in the "final" Office Action of December 30, 2004 are apparently  
 resolved. Pursuant to MPEP § 706.07(c) and (d), Applicant requests that the finality of the  
 Action of December 30, 2004 be withdrawn, and that the Request for Reconsideration filed  
 herewith be entered as of right.

**I. The Advisory Action Introduces a New Ground of Rejection of an Unamended Claim**

An Action may not be made final when it introduces a new ground of rejection, where the new ground was not necessitated by an amendment. MPEP § 706.07(a).

Adjustment date: 03/29/2006 SDIRETAAI  
 04/19/2005 EFLORES 00000092 232405 09434394  
 01 FC:1251 120.00 CR

I certify that this correspondence, along with my documents referred to therein, is being transmitted by facsimile on April 14, 2005 to Art Unit 2122 at FAX no. 703 872 9306, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Request for Withdrawal of Finality  
 This paper dated April 14, 2005

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PAGE 69 \* RCVD AT 4/14/2005 8:28:58 PM (Eastern Daylight Time) \* SVR:USPTO-EFXRF-10 \* DUS:3723008 \* CSD: \* DURATION (mm:ss):02:26

Adjustment Date: 03/29/2006 SDIRETAAI  
 05/03/2005 CBARNES1 00000007 232405 09434394  
 01 FC:1251 120.00 CR

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